

STATEMENT OF EMERGENCY

CALIFORNIA CODE OF REGULATIONS TITLE 14. NATURAL RESOURCES DIVISION 2. DEPARTMENT OF CONSERVATION CHAPTER 5. DIVISION OF RECYCLING

INFORMATIVE DIGEST

The recent passage of AB 3056 (Chapter 907, Statutes of 2006) instituted a new Market Development Payment Program that may make a payment to those California certified entities that wash and flake or pelletize plastic materials in California. This program also makes a payment to product manufacturers in California that manufacture products out of the flake, pellets or other form of the plastic produced by a certified entity. The Department of Conservation (Department) is authorized to spend \$5 million per year in payments.

The purpose of this payment is for washing and flaking or pelletizing plastic in California to ensure availability of this processed plastic as a material for California plastic product manufacturers. This payment encourages plastic product manufacturers to use post-consumer plastic from California beverage containers.

FINDING OF NECESSITY

Plastic Market Development Payment Program emergency regulations are necessary to implement provisions of AB 3056 related to market development payments. These proposed emergency regulations state how certified entities and product manufacturers submit a claim form for the Market Development Payment to the Department. The plastic product manufacturer must obtain an identification number from the Department prior to submitting a Plastic Market Development claim form.

Subchapter 1. General Requirements

Section 2880 Plastic Market Development Payments has been added to the regulations due to the passage of AB 3056.

Section 2880 (a) has been added to the regulations to clarify that the Plastic Market Development Payment will be allocated to certified entities actually washing and producing the flake, pellet or other form of plastic and the plastic product manufacturer who uses this material to manufacture a plastic product in this state.

Sections 2880 (b) (1) and (2) have been added to the regulations to state how the certified entities and plastic product manufacturers shall submit a Plastic Market Development

Claim Form to the Department for each calendar quarter in which the plastic market development payment is being claimed.

Section 2880 (c) has been added to the regulations to state that, prior to submitting a claim form for payment, a plastic product manufacturer must obtain an identification number from the Department by completing a Plastic Market Development Payment Identification Application.

Section 2880 (d) has been added to the text to state that the Plastic Market Development Payment Claim Form must be postmarked no later than the tenth day of the second month following the reporting quarter.

Section 2880 (e) has been added to regulations to define “plastic product” as a good or package in a form that requires no further processing or forming before it is offered for sale.

Section 14536 (b) has been included in the Authority Section of Section 2880 to cite the Division’s authority to adopt emergency regulations to implement Section 14549.2 of the California Beverage Container Recycling and Litter Reduction Act (Act).

FINDING OF EMERGENCY

AB 3056, passed as urgency legislation, authorizes the Department (pursuant to Public Resources Code Section 14536 (b) (1)) to adopt emergency regulations to implement Section 14549.2 of the Beverage Container Recycling and Litter Reduction Act. To comply with and to implement provisions of AB 3056, it is necessary for the Department to adopt emergency regulations.

The adoption of these regulations is deemed to be an emergency pursuant to Public Resources Code Section 14536 (b) (1) and (2) which provides that “(1) The director shall adopt regulations, and may adopt emergency regulations for the purposes of implementing Sections 14538, 14539, 14541, 14549.1, 14549.2, 14549.7, 14550, 14561, 14574, 14575, 14585, 14588.1, 14558.2, and 14591...(2) Any emergency regulations, if adopted, shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare....”

These emergency regulations are necessary in order for the Department to implement the Plastic Market Development Payment Program and begin expending up to \$5 million annually for market development payments for empty plastic beverage containers until January 1, 2012.

AUTHORITY

These regulations are submitted pursuant to the Department's authority under Public Resources Code subsections 14530.5 (b) and 14536 (b).

REFERENCE

Adopted 14 California Code of Regulations (CCR) Section 2880 is necessary to implement, interpret and make specific Public Resources Code Section 14549.2.

LOCAL MANDATE

The proposed regulations do not impose a mandate on local agencies or school districts.

COSTS

No additional costs or savings are anticipated for the Department of Conservation, Division of Recycling in implementing this emergency regulation package. These emergency regulations do not place any additional requirements on recycling operations.

The proposed emergency regulations will not result in either cost or saving to any other State Agency, local agencies or school districts. Further, these proposed emergency regulations will not result in any non-discretionary cost or savings to any local agencies, nor will they result in cost or savings to federal funding for the State.

NOTICE OF EMERGENCY REGULATORY ACTION

The Department of Conservation has complied with the requirement to provide notice of the proposed rulemaking action pursuant to Government Code Section 11346.1 (a) (2).

A copy of the memorandum transmitting the proposed emergency text and the proposed Statement of Emergency to interested parties is included in the emergency rulemaking file.

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5/30/07